



UNITED STATES SENATE
**REPUBLICAN
POLICY COMMITTEE**

Larry E. Craig, Chairman
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From the Congressional Record

**Senator Gregg: McCain-Kennedy-Edwards
(S. 1052) Would Violate Health Plan Contracts**

Here's what HELP Committee Ranking Member Judd Gregg (R-NH) had to say [as printed in the *Congressional Record* of June 19, 2001] about the provisions in the McCain-Edwards-Kennedy bill (S. 1052) that allows medical reviewers to force employers to pay for services explicitly *not* covered in the employee-health plan contract:

The McCain bill allows the medical reviewer to consider but “not be bound by” a plan’s definition of medical necessity which may be used to determine whether a plan covers a benefit. In effect, this allows the medical reviewers to ignore contract definitions of medical necessity and substitute their own definitions or opinions as a basis for overturning a health plan’s decision.

This provision would lead to routine reversals of health plan decisions and generate increased litigation. Employers and health plans would have no predictability in administering their plans or estimating their exposure to liability. Alternatively, this may cause plans to routinely approve all coverage, thereby driving up premiums astronomically and raising quality and safety concerns for the patient. Employers may reconsider their commitment to offer and administer health benefits if the McCain bill becomes law.

Health plans and employers that honor their contractual obligations could be on the losing end of a lawsuit when an external medical reviewer decides to disregard a term in the health plan contract. Even plans that adhere carefully to the terms of their contracts, no matter how generous those terms are, could be held liable if the reviewer decides to apply a different standard.

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